

No. 19-15128

**In the United States Court of Appeal
for the Ninth Circuit**

STEVE WILSON BRIGGS

Appellant/Petitioner,

v.

ARI EMANUEL, MATT DAMON, BEN AFFLECK, MRC, NEILL BLOMKAMP,
NBCUNIVERSAL, ASIF SATCHU, BILL BLOCK, SONY PICTURES ENT,
MORDECAI WICZYK, DANA BRUNETTI

Appellees/Respondents.

On Appeal from the U.S. District Court for Northern District of California

CASE NO. 3:18-CV-4952-VC

THE HONORABLE VINCE CHHABRIA

**APPELLEES' JOINT SUPPLEMENTAL EXCERPTS OF RECORD
VOLUME 1 of 7
[PAGES 1- 4]**

*Stephen G. Larson (SBN 145225)
Jonathan E. Phillips (SBN 233965)
A. Alexander Lowder (SBN 269362)

Larson O'Brien LLP

555 S. Flower Street, 44th Floor

Los Angeles, California 90071

Telephone: (213) 436-4888

Facsimile: (213) 623-2000

Email: Slarson@larsonobrienlaw.com

*Counsel For Appellee Trigger Street
Productions, Inc.*

Kelli L. Sager (SBN 120162)
Rochelle L. Wilcox (SBN 197790)
Brendan N. Charney (SBN 293378)

Davis Wright Tremaine LLP

865 S. Figueroa Street, Suite 2400

Los Angeles, California 90017-2566

Telephone: (213) 633-6800

Facsimile: (213) 633-6899

Email: Kellisager@dwt.com

Counsel For Appellee NBCUniversal Media, LLC

Michael J. Kump (SBN 100983)

Gregory P. Korn (SBN 205306)

Kate Mangels (SBN 301811)

Kinsella Weitzman Iser Kump & Aldisert LLP

808 Wilshire Boulevard, 3rd Floor

Santa Monica, California 90401

Telephone: (310) 566-9800

Email: Mkump@kwikalaw.com

*Counsel For Appellee MRC II Distribution Company,
LP, Mordecai Wiczuk, Asif Satchu, Sony Pictures
Entertainment, Inc., and Ariel Emanuel*

TABLE OF CONTENTS

DATE	DESCRIPTION	VOL.	PAGE
01/22/19	[Dkt. 94] Order Denying (92) Motion for Leave to File Motion for Reconsideration, Motion to Alter Judgement filed by Plaintiff Steve Kenyatta Wilson Briggs	1	ER 1
12/22/18	[Dkt. 91] Judgment Signed by Judge Vince Chhabria	1	ER 2
12/22/18	[Dkt. 90] Order Granting Motions to Dismiss (Dkts. 27, 48, and 51) and Denying Motion to Declare Plaintiff a Vexatious Litigant	1	ER 3
01/22/19	[Dkt. 95] Notice of Appeal to the 9th Circuit Court of Appeals filed by Plaintiff Steve Kenyatta Wilson Briggs	2	ER 5
01/14/19	[Dkt. 92] Motion for Leave to File Motion for Reconsideration, Motion to Alter Judgment filed by Plaintiff Steve Kenyatta Wilson Briggs	2	ER 12
12/17/18	[Dkt. 89] Errata by Plaintiff Steve Kenyatta Wilson Briggs (Certificate of Service)	2	ER 67
11/30/18	[Dkt. 79] Reply re (51) Motion to Dismiss Complaint Pursuant to FRCP 12(b)(6) and/or 12(b)(1) filed by Ari Emanuel, MRC, Asif Satchu, Sony Pictures Ent. Inc., Mordecai Wiczuk	2	ER 71
11/30/18	[Dkt. 78] Reply re (48) Motion to Dismiss filed by NBCUniversal Media, LLC	2	ER 79
11/23/18	[Dkt. 68] Opposition/Response re (48) NBCU Motion to Dismiss filed by Plaintiff Steve Kenyatta Wilson Briggs	2	ER 94
11/21/18	[Dkt. 67] Opposition/Response re (51) MRC Defendants' Motion to Dismiss Complaint Pursuant to FRCP 12(b)(6) and/or 12(b)(1) filed by Plaintiff Steve Kenyatta Wilson Briggs	2	ER 106
11/20/18	[Dkt. 66] Reply re (27) Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(B)(6) and/or 9(B) filed by Trigger Street Productions	2	ER 118

TABLE OF CONTENTS

DATE	DESCRIPTION	VOL.	PAGE
11/19/18	[Dkt. 63] Opposition/Response re (27) Trigger Street Productions' Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) and/or 9(B) filed by Plaintiff Steve Kenyatta Wilson Briggs	2	ER 129
11/14/18	[Dkt. 62] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Declaration of Zena Briggs, concerning the refusal of service of process by Defs. Spacey and Brunettis agency for service of process) (Altman, Greenfield & Selvaggi)	2	ER 159
11/14/18	[Dkt. 61] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Proof of Service by certified mail, with return receipt and Acknowledgment of Receipt of Summons, Declaration of Cecile Lusby)	2	ER 162
11/13/18	[Dkt. 60] Status Report (Addendum) regarding Service of Process developments concerning Defs. Spacey and Brunetti, and their agents final efforts to evade and refuse service by Plaintiff Steve Kenyatta Wilson Briggs	2	ER 165
11/12/18	[Dkt. 59] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Proof of Service of Defs. Damon and Affleck, Declaration of Melvin Jackson)	2	ER 172
11/12/18	[Dkt. 58] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Proof of Service, Declaration of Nexus Asson, Re service of Defs. MRC, Satchu, Wiczuk)	2	ER 175
11/09/18	[Dkt. 53] Declaration of Gregory Korn in Support of (51) Motion to Dismiss Complaint Pursuant to FRCP 12(b)(6) and/or 12(b)(1) filed by Ari Emanuel, MRC, Asif Satchu, Sony Pictures Ent. Inc., Mordecai Wiczuk (358 pgs) (Part 1) ER 182-ER 256	2	ER 182
11/09/18	[Dkt. 53] Declaration of Gregory Korn in Support of (51) Motion to Dismiss Complaint Pursuant to FRCP 12(b)(6) and/or 12(b)(1) filed by Ari Emanuel, MRC, Asif Satchu, Sony Pictures Ent. Inc., Mordecai Wiczuk (358 pgs) (Part 2) ER 257-ER 539	3	ER 257

TABLE OF CONTENTS

DATE	DESCRIPTION	VOL.	PAGE
11/09/18	[Dkt. 52] Request for Judicial Notice in Support of Defendants' Motion to Dismiss First Amended Complaint Pursuant to FRCP 12(b)(6) and/or 12(b)(1) filed by Ari Emanuel, MRC, Asif Satchu, Sony Pictures Ent. Inc., Mordecai Wiczynk	4	ER 540
11/09/18	[Dkt. 51] Motion to Dismiss Complaint Pursuant to FRCP 12(b)(6) and/or 12(b)(1) filed by Ari Emanuel, MRC, Asif Satchu, Sony Pictures Ent. Inc., Mordecai Wiczynk	4	ER 542
11/09/18	[Dkt. 49] Request for Judicial Notice re (48) Motion to Dismiss filed by NBCUniversal Media, LLC	4	ER 562
11/09/18	[Dkt. 48] Motion to Dismiss filed by NBCUniversal Media, LLC	4	ER 722
11/09/18	[Dkt. 46] Order by Judge Vince Chhabria denying (39) Motion for Service by Publication, and Motion for Extension of Service Deadline	4	ER 749
11/08/18	[Dkt. 45] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (temporary "illustrative" service statements)	4	ER 750
11/08/18	[Dkt. 44] Second Motion for Service by Publication for Defs Spacey and Brunetti filed by Plaintiff Steve Kenyatta Wilson Briggs	4	ER 765
11/05/18	[Dkt. 41] Clerk's Declination of Default as to Kevin Spacey and Dana Brunetti. (Plaintiff has not submitted evidence satisfactory to the court establishing actual delivery to the persons to be served per CA CCP Section 417.20)	4	ER 785
11/05/18	[Dkt. 40] Request for Judicial Notice filed by Plaintiff Steve Kenyatta Wilson Briggs	5	ER 786
11/05/18	[Dkt. 39] Motion for Service by Publication filed by Plaintiff Steve Kenyatta Wilson Briggs	5	ER 886

TABLE OF CONTENTS

DATE	DESCRIPTION	VOL.	PAGE
11/05/18	[Dkt. 38] Status Report Regarding Service of Process on All Defendants by Plaintiff Steve Kenyatta Wilson Briggs	5	ER 893
11/05/18	[Dkt. 37] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Service of Process of Summons and Complaint by U.S. mail, C. Lusby)	5	ER 903
11/05/18	[Dkt. 36] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Service of Process of Summons and Complaint by U.S. mail 9/27/18)	5	ER 906
11/05/18	[Dkt. 35] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Service of Process of Summons and Complaint by U.S. mail)	5	ER 909
11/05/18	[Dkt. 34] Notice of Voluntary Dismissal of Sound Point Capital Management by Plaintiff Steve Kenyatta Wilson Briggs	5	ER 912
10/31/18	[Dkt. 33] Fourth Motion for Default Judgment by the Clerk as to Request for Entry of Default filed by Plaintiff Steve Kenyatta Wilson Briggs	5	ER 914
10/31/18	[Dkt. 32] Certificate of Service (correction) by Plaintiff Steve Kenyatta Wilson Briggs	5	ER 946
10/31/18	[Dkt. 31] Clerk's Declination of Default	5	ER 949
10/31/18	[Dkt. 29] Joinder re (27) Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(B)(6) and/or 9(B) by Sound Point Capital Management, LC	5	ER 950
10/29/18	[Dkt. 28] Motion for Default Judgment by the Clerk as to Request for Entry of Default against Defs. Trigger Street Productions, and Sound Point filed by Plaintiff Steve Kenyatta Wilson Briggs	5	ER 953
10/29/18	[Dkt. 27] Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(B)(6) and/or 9(B) filed by Trigger Street Productions (Part 1) ER 982- ER 1019	5	ER 982

TABLE OF CONTENTS

DATE	DESCRIPTION	VOL.	PAGE
10/29/18	[Dkt. 27] Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(B)(6) and/or 9(B) filed by Trigger Street Productions (Part 2) ER 1020-ER 1190	6	ER 1020
10/29/18	[Dkt. 26] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs re (17) Certificate of Service, (16) Certificate of Service (Supplemental) proof of signed return receipts received for Defs. Trigger Street Productions, Inc. and Sound Point Capital Management, LC (09/17/18); and for Kevin Spacey, Dana Brunetti, (09/27/18)	6	ER 1191
10/26/18	[Dkt. 25] Clerk's Declination of Default	6	ER 1212
10/25/18	[Dkt. 24] Second Motion for Default Judgment by the Clerk as filed by Plaintiff Steve Kenyatta Wilson Briggs	6	ER 1213
10/22/18	[Dkt. 23] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Declaration re service of process of Defs MRC, Satchu, and Wiczky)	6	ER 1224
10/22/18	[Dkt. 22] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Proof of Service of Def. Sony Picture Entertainment, Inc.)	6	ER 1227
10/22/18	[Dkt. 21] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Proof of Service of Def. NBCUniversal)	6	ER 1230
10/22/18	[Dkt. 20] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Proof of Service of Defs. Ari Emanuel, Neill Blomkamp, Matt Damon, and Ben Affleck)	6	ER 1232
10/22/18	[Dkt. 19] Certificate of Service by Plaintiff Steve Kenyatta Wilson Briggs (Declaration re service of Spacey, Brunetti, and Trigger Street Productions)	6	ER 1235

TABLE OF CONTENTS

DATE	DESCRIPTION	VOL.	PAGE
10/22/18	[Dkt. 18] Request for Entry of Default Against Defendants Kevin Spacey, Dana Brunetti, and Trigger Street productions, Inc. filed by Plaintiff Steve Kenyatta Wilson Briggs	6	ER 1237
10/09/18	[Dkt. 17] (Second) Proof of Service of Summons and Complaint; Declaration of Dr. Morgan Marchbanks by Plaintiff Steve Wilson Briggs	6	ER 1242
10/09/18	[Dkt. 16] (First Proof of Service of Summons and Complaint; Declaration of Dr. Morgan Marchbanks by Steve Willson Briggs	6	ER 1245
10/04/18	[Dkt. 11] Notice of Service of Process Issues by Steve Wilson Briggs	6	ER 1248
08/15/18	[Dkt. 3] Summons Issued as to Ben Affleck, William Block, Neill Blomkamp, Dana Brunetti, Matt Damon, Ari Emanuel, MRC, NBCUniversal Media, LLC, Asif Satchu, Sony Pictures Ent., Inc., Sound Point Capital Management, LC, Kevin Spacey, Trigger Street Productions, Mordecai Wiczzyk	7	ER 1287
08/15/18	[Dkt. 1] Complaint against Ben Affleck, William Blcok, Neill Blomkamp, Dana Brunetti, Matt Damon, Ari Emanuel, MRC, NBCUniversal Media, LLC, Asif Satchu, Sony Pictures Ent., Inc., Sound Point Capital Management, LC, Kevin Spacey, Trigger Street Productions, Mordecai Wiczzyk filed by Steve Wilson Briggs	7	ER 1288
	Court Docket	7	ER 1528

Case 3:18-cv-04952-VC Document 94 Filed 01/22/19 Page 1 of 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVE KENYATTA WILSON BRIGGS,
Plaintiff,
v.
KEVIN SPACEY, et al.,
Defendants.

Case No. 18-cv-04952-VC

**ORDER DENYING LEAVE TO FILE
MOTION FOR RECONSIDERATION**

Re: Dkt. No. 92

Briggs's Motion for Leave to File a Motion for Reconsideration is denied. He does not provide any additional evidence that is relevant to the Court's order, nor does he present new arguments that demonstrate the Court's order made manifest errors of law or fact, or was otherwise manifestly unjust. *Cf. Hiken v. Dep't of Defense*, 836 F.3d 1037, 1042 (9th Cir. 2016).

IT IS SO ORDERED.

Dated: January 22, 2019



VINCE CHHABRIA
United States District Judge

Case 3:18-cv-04952-VC Document 91 Filed 12/22/18 Page 1 of 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVE KENYATTA WILSON BRIGGS,

Plaintiff,

v.

KEVIN SPACEY, et al.,

Defendants.


Case No. 18-cv-04952-VC

JUDGMENT

On December 22, 2018, the Court dismissed the Complaint with prejudice. Pursuant to Federal Rule of Civil Procedure 58, the Court hereby ENTERS judgment in favor of the defendants and against the plaintiff. The Clerk of Court shall close the file in this matter.

IT IS SO ORDERED.

Dated: December 22, 2018



VINCE CHHABRIA
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVE KENYATTA WILSON BRIGGS,

Plaintiff,

v.

KEVIN SPACEY, et al.,

Defendants.

Case No. 18-cv-04952-VC

**ORDER GRANTING MOTIONS TO
DISMISS AND DENYING MOTION TO
DECLARE PLAINTIFF A VEXATIOUS
LITIGANT**

Re: Dkt. Nos. 27, 43, 48, 51, 54

1. The defendants' motions to dismiss Briggs's complaint are granted and the Complaint is dismissed with prejudice. Although he has packaged them in new causes of action, most of his claims seek to relitigate issues decided by Chief Judge Hamilton in *Briggs v. Blomkamp*, No. 4:13-046790-PJH (*Briggs I*). These claims include all the allegations involving the film *Elysium* and evidentiary decisions made by Chief Judge Hamilton. Therefore, as it pertains to the defendants who were present in *Briggs I*, the claims are barred by claim preclusion (*res judicata*); as it pertains to the new defendants, the claims are barred by issue preclusion (*collateral estoppel*). Because these claims are precluded, amendment would be futile, and they are dismissed without leave to amend.

The only claims Briggs raises that are not precluded – his allegations of breach of contract and international infringement – are dismissed for failure to state a claim. Briggs's interpretation of triggerstreet.com's *Terms of Use*, as incorporated by reference in the complaint, is implausible on the face of the agreement. Briggs cites to the section titled "International Use" as a promise on the website's behalf to not make the site available to people outside the United States. *See* Complaint Exhibit A, Dkt. No. 1-1, at 28. No reasonable reading of that section could

give rise to that obligation. Moreover, the agreement states that any material posted on the website “may be used by [Trigger Street] throughout the world in perpetuity for any purpose whatsoever, including, but not limited to, reproduction, disclosure, transmission, publication, broadcast, posting and sublicensing.” Complaint Exhibit A, Dkt. No. 1-1, at 26. Because these claims are premised on an unreasonable and implausible reading of the *Terms of Use*, the claims are dismissed without leave to amend – any amendment would be futile.


To the extent the claims are brought against defendants who have not yet been served or who have not yet appeared, the claims are dismissed with prejudice as to those defendants pursuant to the Court’s authority under 28 U.S.C. § 1915(e)(2).

2. Briggs’s motion to strike Trigger Street’s motion for failure to file a corporate disclosure statement is denied. Trigger Street’s tardy filing prejudiced no one.

3. The defendants do not clear the high burden necessary to declare Briggs a vexatious litigant, therefore their motion to do so is denied.

IT IS SO ORDERED.

Dated: December 22, 2018



VINCE CHHABRIA
United States District Judge